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August 1, 1997

AUG - 1 1997

BY HAND DELIVERY

Mr. William F. Caton
Secretary
Federal Communications Commission
Room 222
1919 M Street, N.W.
Washington, D.C. 20554

Re: Notice of Ex Parte Communication in CC Docket 96-98

Dear Mr. Caton:

Today, on behalf of WorldCom, Inc., Richard L. Fruchterman, III, Director, Government Affairs, WorldCom, and I, of Hogan & Hartson, L.L.P., met with Thomas Boasberg, Legal Advisor to Chairman Reed E. Hundt, Kathleen Franco, Legal Advisor to Commissioner Rachelle B. Chong, and Paul Gallant, Legal Advisor to Commissioner James H. Quello, regarding the shared transport issue in the referenced docket.

The attached outline summarizes the issues discussed in our meetings and was distributed at the meetings. The attached copy of WorldCom's ex parte letters, filed in the referenced docket on June 27 and May 23, 1997, also were distributed and discussed at the meetings.

I have hereby submitted two copies of this notice to the Secretary, as required by the Commission's rules. Please return a date-stamped copy of the enclosed (copy provided).

Please contact the undersigned if you have any questions.

Respectfully submitted,

Linda L. Oliver

Linda L. Oliver
Counsel for WorldCom, Inc.

Enclosures
cc: Thomas Boasberg
Kathleen Franco
Paul Gallant

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Unbundled Local Switching, Local Transport, and Interexchange Access

WorldCom, Inc., Ex Parte Presentation

CC Docket 96-98

August 1, 1997

Ameritech Has Taken Positions on Unbundled Local Switching, Local Transport, and Interexchange Access That Violate the Act and the FCC's Rules

In its filings before the FCC and before state commissions, Ameritech has defined the unbundled local switching (ULS) element in a manner that would deny requesting carriers the ability to function as local telephone companies, contrary to the Act and the FCC's rules:

- Ameritech would deny purchasers of unbundled local switching the ability to complete local calls over the Ameritech interoffice network ("shared" or "common" transport).

- Ameritech would deny the purchaser of unbundled local switching the ability to function as the provider of interexchange access to the IXCs originating traffic from and terminating traffic to its local customers, unless the interexchange carrier establishes separate circuits (and therefore trunk ports) that can be used only to access ULS end users.

The FCC Must Issue an Order to Make it Clear that Ameritech's Position Violates the Act.

In WorldCom's view, the Act and the FCC's rules already make it clear that purchasers of unbundled local switching have the right to employ the Ameritech interoffice network on a cost-based, nondiscriminatory basis to complete local calls.

- Other incumbent LECs, such as NYNEX and Bell Atlantic, have made this form of interoffice transport available to purchasers of unbundled local switching.

The Act and FCC's rules also make it clear that the ULS purchaser is the sole provider of interexchange access, regardless of the method of transport chosen by the interexchange carrier to reach the ULS end office -- and that no access charges should be assessed to carriers that buy unbundled network elements.

- NYNEX and Bell Atlantic, for example, do not contest this characterization of the ULS purchaser.

WorldCom urges the FCC to issue an order *immediately* to clarify that Ameritech's position violates the Act and the FCC's rules.

- Ameritech's position has had the practical effect of eliminating unbundled local switching (and the network element "platform") as a viable local entry vehicle.

- The uncertainty that Ameritech's position is creating will slow the progress of Act implementation and local competition.

- Ameritech is refusing to create the necessary operational systems to support the platform configuration as the FCC defined it.

- The RBOCs need to know what is required of them under the Section 271 competitive checklist.

- Market-based access reform proposals depend upon the ability of interexchange carriers to become local service providers on the same terms as the incumbent LEC -- whether through cost-based unbundled elements in a platform configuration or in combination with other facilities -- and to function as interexchange access providers (to themselves and to other IXCs).

Ameritech Violates a Number of Principles Set Forth in the Act and in the FCC's Implementing Rules.

Principle Number One: Network elements can be combined in any configuration. 47 U.S.C. § 251(c)(3); 47 C.F.R. § 51.315.

Simply because an entrant may *choose* to obtain interoffice transport unbundled from local switching does not mean that switching and transport cannot be purchased in combination.

Local switching and interoffice facilities today are combined in Ameritech's network, both physically and logically, through the routing tables in the switch. If an entrant desires both, Ameritech may not change the configuration except at the entrant's request.

Network elements that are currently combined need not and should not be broken apart unless requested by the entrant. See 47 C.F.R. § 51.315(b).

Principle Number Two: Interexchange carriers have the choice of transport arrangement and provider.

Ameritech's view requires that if the ULS purchaser wants to be the provider of interexchange access, it must make the interexchange carrier change its transport arrangement, and obtain a separate transport arrangement that only serves the ULS purchasers' customers.

This tying of access transport to other components of switched access is directly contrary to the Commission's long-standing policy that transport may be obtained separately from these other access elements.

It also forces the ULS purchaser to make arrangements with every IXC for transport from the IXC's POP to each of the end offices in which the ULS purchaser has local customers.

Principle Number Three: The Act and the FCC's rules require that Ameritech share its scale economies with other entrants. August 8, 1996 Order in CC Docket 96-98 ("Interconnection Order") at para. 441.

> Ameritech's approach would force entrants to piece together their own separate, duplicative interoffice transmission networks for completion of local calls. As a result of this approach, the scale economies from Ameritech's inherited monopoly would be forever reserved to Ameritech because Ameritech would deny entrants the ability to use the existing Ameritech interoffice network in common with Ameritech's monopoly traffic.
>
> The Eighth Circuit's July 18 decision on review of the Interconnection Order confirms this FCC view. Specifically, the Court upheld the FCC's interpretation of the meaning of the term "impair" in Section 251(d)(1)(B). 1/ Section 251(d)(1)(B) provides that in defining required network elements, the FCC should consider whether lack of access to an element would "impair" a carrier's ability to provide service. The Court held that if the cost of providing service would be higher without access to the network element -- as is surely the case if access to Ameritech's common interoffice network were denied -- then a carrier's ability to provide service would be "impaired" within the meaning of Section 251(d)(3). 2/

1/ Iowa Utilities Board v. FCC (8th Cir. No.96-3321 et al., July 18, 1997), affirming in part and reversing in part Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, First Report and Order, CC Docket No. 96-98, FCC 96-325, released August 8, 1996, 11 FCC Rcd 15499 ("Interconnection Order"), Slip op. at 135-39.

2/ Iowa Utilities Board, Slip op. at 138-39.

Principle Number Four: **The Act's definition of "unbundled network element" includes the functionality of a network component. 47 U.S.C. § 153(29).**

Ameritech's view that network elements can only be discrete network facilities is directly contradicted by the Act's definition of a network element. Network elements can include "functions of a facility," not just the facility itself. 47 U.S.C. § 153(29).

The Eighth Circuit adopted a broad reading of the statutory term "network element," and rejected the arguments of incumbent LECs to narrow the scope of required network elements to include simply the equipment or facilities of the network (its "physical parts"). 3/

Principle Number Five:. The FCC rules define the ULS element to include *all* the features and functionality of the local switch. 47 C.F.R. § 319(c)(i)(C).

Among the "features and functionalities" of a local switch are the resident routing instructions. Ameritech's position denies the use of these routing tables to the entrant because the entrant may not use them to direct traffic to existing trunk groups.

The Eighth Circuit similarly concluded that, with respect to operational support systems, vertical features of the switch, and operator services, the Act's definition of "network elements" is broad and not limited to the "physical parts" of the network. 4/

3/ Iowa Utilities Board, Slip op. at 130, 130-34.

4/ Iowa Utilities Board, Slip op. at 130, 130-34.

Principle Number Six: The Act and the FCC's rules require incumbent LECs to provide requesting carriers with nondiscriminatory access to ILEC facilities – that is, access that is equal to the access it provides its own services. 47 U.S.C. § 252(c)(3); Interconnection Order at para. 312.

Ameritech clearly provides itself the use of its interoffice transport network to its own local end users and to interexchange carriers serving those end users. It must make that interoffice network equally available to all end users housed in that switch, whether they are Ameritech's own local customers or are served via unbundled switching.

Principle Number Seven: The FCC expressly rejected the concept of switch partitioning in its definition of the ULS network element. Interconnection Order at para. 416.

Ameritech's definition of unbundled local switching *requires* that the ULS-carrier obtain line and trunk ports that are unique to the ULS-carrier's traffic (or shared with other ULS-carriers). This is a form of switch partitioning, which the Commission expressly rejected when it defined the ULS. It denies the ability of the ULS purchaser to use the local switch in the same way Ameritech does.

Principle Number Eight:. The Act and the FCC's rules define the ULS element to establish the ULS-purchaser as the exclusive provider of exchange access. 47 U.S.C.§ 252(d)(1); 47 C.F.R.§ § 51.307(c), 51.309(b); Interconnection Order at paras. 356-65; First Reconsideration Order at para. 11. 5/

Under Ameritech's interpretation, the ULS-purchaser does not become the exclusive access provider for its subscribers unless the interexchange carrier chooses a new, and less efficient, transport configuration. Ameritech would deny to the ULS-purchaser the ability to self-provide and to offer to others the loop/switch elements of the carrier common line charge (CCLC), transport interconnection charge (TIC), and local switching.

5/ Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, First Order on Reconsideration, CC Docket No. 96-98, 11 FCC Rcd 13042, 13048 (para. 11).

Principle Number Nine: Network elements must be provided in a non-discriminatory fashion. 47 U.S.C. § 251(c)(3).

Ameritech permits carriers with their own switches to interconnect to interexchange carriers using transport circuits that carry both Ameritech and entrant traffic (for instance, facilities from a tandem to a POP where the entrant's end office subtends the Ameritech tandem). Refusing a similar ability to ULS-carriers is discriminatory.

Principle Number Ten: Denial to IXCs of the ability to reach all end users served by Ameritech's switches constitutes a termination of service without justification and without notice to interexchange carriers.

Ameritech's access tariff offers transport to all valid NXXs served at an end-office or tandem. ULS-purchasers' end users will retain the same valid NXXs and Ameritech has no right to terminate transport to the IXC serving these end users or to require that the IXC obtain separate access transport to these ULS end users.

Shared transport may be employed by requesting carriers for any purpose, including exchange access.

- Unbundled shared transport may be used to originate and terminate any call, whether local or toll.

- Section 251(c)(3) of the Act does not limit in any way the telecommunications services that requesting carriers may provide over network elements.

- The FCC's rules provide that unbundled network elements may be used to provide any telecommunications service. 47 C.F.R. § 51.307(c).

- The FCC's rules also provide that a requesting carrier may use network elements to provide exchange access to itself. 47 C.F.R. § 51.309(b).

- There is no legal or policy justification for limiting the ability of requesting carriers to use shared transport for any purpose, including provision of exchange access to itself or to others.

What is the practical effect of the denial of access to the incumbent LEC's interoffice network?

- Requires entrants to engineer a separate, duplicate interoffice network before providing service to a single end user over unbundled local switching.
- Requires entrants to order and pay for customized routing within each end office switch.
- Creates the potential for exhaust of customized routing capability well before the needs of entrants have been satisfied.
- Forces ULS purchasers to make separate arrangements with every IXC desiring to terminate traffic to or originate traffic from a ULS end user.
- Creates an effective barrier to local entry because only high volumes of traffic could even begin to warrant the use of dedicated interoffice facilities. Entrants are by definition low volume users.
- Denies to entrants the efficiencies of the existing LEC interoffice network, and thereby artificially and unnecessarily raises the cost of competitive local service provision.

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June 27, 1997

BY HAND DELIVERY

Mr. William F. Caton
Secretary
Federal Communications Commission
1919 M Street, N. W.
Room 222
Washington, D. C. 20554

Re: Notice of Ex Parte Communication in CC Docket 96-98

Dear Mr. Caton:

Yesterday, on behalf of WorldCom, Inc., Catherine Sloan and Richard Fruchterman, of WorldCom, Joseph Gillan of Gillan Associates, and I of Hogan & Hartson, L.L.P., met with Donald Stockdale, Lisa Gelb, Kalpak Gude, and Jake Jennings, of the Common Carrier Bureau Policy Division, and Doug Slotten of the Competitive Pricing Division. We also separately met with Richard Metzger, Deputy Chief, of the Common Carrier Bureau and Jake Jennings.

In the meetings, WorldCom addressed questions related to the use of shared transport as an unbundled element to originate and terminate interexchange calls. WorldCom pointed out that the 1996 Telecommunications Act, the Commission's August 1996 order in CC Docket No. 96-98, and the FCC's rules all make it clear that unbundled network elements may be used by any telecommunications carrier to provide any telecommunications service, including exchange access, to itself or to others. 1/ We also pointed out that there is nothing in the Act or the FCC's order that would justify limiting the

1/ 47 U.S.C. § 251(c)(3). 47 C.F.R. § 51.307(c), 51.309(b).

ability of requesting carriers to use "shared" or "common" transport as a network element in any way, including for exchange access. 2/

WorldCom also addressed the question of whether there is likely to be a significant reduction in interstate access revenues collected by incumbent LECs as a result of interexchange carriers having the ability to purchase shared transport as a network element and use it to self-provide interexchange access transport. Of course, considerations of revenue impact are irrelevant to the question of whether the ILECs have an obligation under the Act to provide shared transport to any requesting carrier for any purpose. We nevertheless address this argument because it has apparently been raised by other parties.

In our meetings, we pointed out that tandem-switched transport services make up a relatively small percentage of total interstate access revenues collected by the incumbent LECs, and that the switch to network element shared transport from tandem-switched access transport would have a minimal revenue impact on the incumbent LECs.

The attached charts, which were distributed at our meetings, estimate the maximum potential reduction in Ameritech's interstate access revenues that could result if every interexchange carrier immediately substituted shared transport (the unbundled element) for tandem-switched transport purchased under the Part 69 access tariffs. The chart uses current interstate rates for common transport (tandem-switched transport) for three of the Ameritech states and compares those rates with the rates that have been established in those states for local transport under Section 251(b)(5). 3/

2/ For purposes of this letter, we use the term "shared transport" as shorthand to refer to the shared use of Ameritech's interoffice transport network. The term "shared" transport often is used interchangeably with "common" transport, and is the term used by the Commission in the Interconnection Order. See, e.g., Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, 11 FCC Rcd 15499, 15718, ¶ 440 (1996) ("Interconnection Order"), pets. for review pending sub nom. Iowa Utilities Board v. FCC, No. 96-3321 (8th Cir.). See also id., 11 FCC Rcd at 15631, ¶ 258 (referring explicitly to "common transport" network element).

3/ Because Ameritech has refused to provide shared transport as a network element (except to permit competing carriers to share a dedicated transport

The chart applies those two sets of rates to the demand levels used by Ameritech in its 1997 annual access tariff filings to generate figures for the maximum revenue impact on Ameritech if every IXC were instantly to switch all its tandem-switched transport minutes to unbundled shared transport. The estimates for Indiana and Ohio were derived by applying the average reductions for the other three Ameritech states. The total maximum potential revenue reduction for all five states is about $14 million, or *only half of one percent* of Ameritech's total interstate revenues from price cap services.

The second attached chart performs the same analysis, but this time compares shared transport rates with an estimate of the change in the tandem-switching rate that would take effect on January 1, 1998, under the terms of the FCC's recent Access Reform Order. 4/ Under this scenario, the revenue impact still would be minimal -- a total of about $27 million for all five Ameritech states, or a drop of *just over one percent* in Ameritech's total interstate revenues from price cap services.

Thus, even with the estimate of the increase in tandem switching rates that would result from implementation of the Access Reform Order, the revenue impact on the incumbent LECs from a switchover by IXCs to unbundled shared transport would be minimal.

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circuit with each other), Ameritech's interconnection agreements in these states do not include a true "shared transport" or "common transport" network element pursuant to Section 251(c)(3).

4/ Access Charge Reform, CC Docket No. 96-262, First Report and Order, FCC 97-158 (released May 16, 1997), petitions for review pending.

I have hereby submitted two copies of this notice to the Secretary, as required by the Commission's rules. Please return a date-stamped copy of the enclosed (copy provided).

Respectfully submitted,

Linda L. Oliver
Counsel for WorldCom, Inc.

Enclosures

cc: Richard Metzger
Donald Stockdale
Lisa Gelb
Kalpak Gude
Jake Jennings
Doug Slotten

Maximum Potential Revenue Reduction (Current Interstate Rates)

Average Interstate Common Transport Rates					
	IL	IND	MI	OH	WI
Tandem	$0.000862		$0.001011		$0.001044
Termination	$0.000284		$0.000298		$0.000304
Mileage	$0.000040		$0.000040		$0.000040
Section 251 Cost-Based Rates					
	IL	IND	MI	OH	WI
Tandem	$0.000956		$0.000744		$0.000735
Termination	$0.000193		$0.000236		$0.000190
Mileage	$0.000012		$0.000006		$0.000014
1997 Interstate Access Demand					
	IL	IND	MI	OH	WI
Tandem	3478090392	1136729518	2817368909	2789213300	1332293721
Termination	4769793562	2990352605	3952245551	4197268433	2309640936
Mileage	74587286302	47833703246	118123046274	86462797752	51785716351
Maximum Revenue Impact					
	IL	IND	MI	OH	WI
Tandem	$326,807	$0	($752,124)	$0	($411,409)
Termination	($435,006)	$0	($245,650)	$0	($262,216)
Mileage	($2,088,444)	$0	($4,016,184)	$0	($1,346,429)
Total	($2,196,644)	($1,375,603)[1]	($5,013,957)	($3,375,341)[1]	($2,020,054)
Total Potential Reduction			($13,981,598)		
Total Interstate Price Cap Services			$2,548,607,033	-0.5%	

[1] Estimated based on average reduction in Illinois, Michigan and Wisconsin.

Maximum Potential Revenue Reduction (Estimated 1/1/98 Interstate Rates)

1/1/98 Estimated Interstate Common Transport Rates					
	IL	IND	MI	OH	WI
Tandem	$0.001896		$0.002224		$0.002296
Termination	$0.000284		$0.000298		$0.000304
Mileage	$0.000040		$0.000040		$0.000040
Section 251 Cost-Based Rates					
	IL	IND	MI	OH	WI
Tandem	$0.000956		$0.000744		$0.000735
Termination	$0.000193		$0.000236		$0.000190
Mileage	$0.000012		$0.000006		$0.000014
1997 Interstate Access Demand					
	IL	IND	MI	OH	WI
Tandem	3478090392	1136729518	2817368909	2789213300	1332293721
Termination	4769793562	2990352605	3952245551	4197268433	2309640936
Mileage	74587286302	47833703246	118123046274	86462797752	51785716351
Maximum Revenue Impact					
	IL	IND	MI	OH	WI
Tandem	($3,270,482)	$0	($4,169,441)	$0	($2,079,902)
Termination	($435,006)	$0	($245,650)	$0	($262,216)
Mileage	($2,088,444)	$0	($4,016,184)	$0	($1,346,429)
Total	($5,793,933)	($2,669,606)[1]	($8,431,274)	($6,550,458)[1]	($3,688,547)
Total Potential Reduction			($27,133,817)		
Total Interstate Price Cap Services			$2,548,607,033	-1.1%	

[1] Estimated based on average reduction in Illinois, Michigan and Wisconsin.

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May 23, 1997

BY HAND DELIVERY

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Room 222
Washington, D.C. 20554

Re: Ex Parte Correspondence in CC Docket No. 96-98 and CC Docket No. 97-137

Dear Mr. Caton:

In response to a staff request, WorldCom, Inc., hereby addresses arguments made by Ameritech in the referenced dockets regarding the use of shared/common transport as part of the purchase of network elements in a platform configuration. 1/

Specifically, we address the following arguments: (1) that when unbundled local switching is employed in combination with the shared use of the incumbent local exchange carrier's ("ILEC's") interoffice transport network ("shared" or "common" transport) 2/, such use of unbundled elements is

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1/ We have not had the opportunity yet to obtain and review the application for Section 271 authority filed by Ameritech on May 21 in CC Docket 97-137. This letter is filed in that docket as well to the extent it is relevant to the issues raised by that application.

2/ For purposes of this letter, we use the term "common transport" as shorthand to refer to the shared use of Ameritech's interoffice transport network. The term "shared" transport often is used interchangeably with "common" transport, and is the term used by the Commission in the Interconnection Order. See, e.g., Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, 11 FCC Rcd 15499, 15718, ¶ 440 (1996) ("Interconnection Order"), pets. for review pending sub nom. Iowa

equivalent to the resale of retail local exchange service under Section 251(c)(4) of the Act; and (2) that investment in competitive local exchange facilities will be discouraged if the platform configuration described above is made available.

Attached to this letter, we also provide, for the record, documentation that shows that other Regional Bell Operating Companies ("RBOCs") in fact have indicated their willingness to make available at least some form of common transport as an unbundled network element.

I. Background

Requesting carriers have the statutory right to purchase ILEC network elements in any configuration or combination, in a manner that is as efficient as the way the ILEC itself uses those network elements, and on the same cost basis as the ILEC. Ameritech has sought to defeat this right by denying requesting carriers the right to purchase, as an unbundled network element, the use of the common interoffice transmission network in the same manner that Ameritech uses that network. Ameritech would accomplish this by denying requesting carriers the ability to employ the existing routing instructions resident in each end office switch to route traffic over the common transport network that Ameritech uses for transport of its own traffic.

Instead, Ameritech would force entrants to construct a virtual, duplicate interoffice network by requiring entrants purchasing unbundled local switching to create their own customized routing instructions for each end office switch and to obtain dedicated transport facilities from each end office (or provide their own). Ameritech's approach completely denies entrants the ability to share Ameritech's interoffice transmission facilities as required by the Act. Every other network element must be shared -- including the end office switch. Ameritech cannot justify carving out the interoffice part of its network and refusing to permit nondiscriminatory access to it.

Ameritech's approach also deprives requesting carriers of the ability to use the Ameritech network as it currently is configured -- with the existing routing algorithms in the switch acting to route traffic over the existing interoffice transmission network -- and thereby separates network elements

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Utilities Board v. FCC, No. 96-3321 (8th Cir.). See also id., 11 FCC Rcd at 15631, ¶ 258 (referring explicitly to "common transport" network element). However, because Ameritech has defined "shared transport" as a dedicated facility that more than one CLEC can share (but not with Ameritech), we here use the term "common transport."

that Ameriech currently combines, in violation of the FCC's rule that prohibits such separation except upon request. 3/

The entire thrust of Section 251(c)(3) is to enable local exchange competition quickly to proceed while carriers construct new local exchange facilities as they are economically justified. Congress recognized that it would take time to construct alternate local networks to duplicate the ILEC network, and that in order to successfully compete, new entrants would need to be able to employ existing ILEC networks in the meantime, taking advantage of the economies of scale that already exist in those networks. 4/

WorldCom has already discussed these points in detail in an April 16, 1997, ex parte filing in CC Docket No. 96-98, and in its comments in that docket filed last year. In this filing, we focus on the two specific questions to which the staff requested responses.

II. Use of unbundled loops, switching and shared transport in combination is not the same as resale of retail local exchange service.

The FCC's August 8 Interconnection Order addressed and squarely rejected arguments that network elements purchased in combination are equivalent to retail local exchange services under Section 251(c)(4). 5/ The plain language of Section 251(c)(3) requires incumbent LECs to permit requesting carriers to combine network elements. 6/ The mere act of combining elements does not convert network capability into a retail service offering, as the Commission also correctly concluded in the Interconnection Order. 7/ In that

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3/ 47 C.F.R. § 51.315(b) ("Except upon request, an incumbent LEC shall not separate requested network elements that the incumbent LEC currently combines.")

4/ "The incumbent LECs have economies of density, connectivity, and scale; . . . . the local competition provisions of the Act require that these economies be shared with entrants." Interconnection Order, 11 FCC Rcd at 15508-09, ¶ 11.

5/ Interconnection Order, 11 FCC Rcd at 15666-71, ¶¶ 328-41. This legal question is before the Eighth Circuit Court of Appeals for review.

6/ 47 U.S.C. § 251(c)(3).

7/ Interconnection Order, 11 FCC Rcd at 15666-71, ¶¶ 328-41.

order the Commission also exhaustively detailed the many differences between resale of retail offerings, on the one hand, and the use of combinations of network elements to *create* competing retail offerings, on the other. 8/

There is nothing about the use of common transport as a network element that would alter these fundamental conclusions. Shared use of Ameritech's interoffice transport network capability is no different than shared use of local switching or other network elements. Purchasers of other elements share, for example, the same switches, the same signaling network, the same databases, and the same operator services, that Ameritech uses. Ameritech nevertheless attempts to isolate the interoffice network capability and deny others the ability to share it. As we discuss below, Ameritech appears to be unique among the RBOCs in its steadfast refusal to provide common transport as an unbundled element.

At bottom, Ameritech is attacking the Commission's prior conclusion that the Act guarantees competitors the ability to purchase, pursuant to Section 251(c)(3), all network elements necessary to provide local exchange and exchange access service, rather than being deprived of this option and relegated only to reselling the incumbent LEC's retail offerings under Section 251(c)(4). That conclusion was correct and well-supported, and remains the same regardless of whether requesting carriers have chosen to employ common or dedicated transport.

The following are among the capabilities competitors have when employing network elements in combination that simply are not available to carriers reselling ILEC retail offerings:

1. Competitors can create their own retail service offerings, and are not bound to the design, pricing, timing, packaging, and scope of the incumbent LEC's retail services. Competition can occur across all these parameters. Resellers, in contrast, can do little more than mimic the ILEC's retail offerings because they are bound, as a practical matter, by all the above parameters as defined by the ILEC's retail offerings.

2. Competitors purchasing network elements are able to provide the full range of services over those elements that the ILEC can provide, including both retail local exchange and exchange access services. Resellers, in

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8/ Interconnection Order, 11 FCC Rcd at 15667-68, ¶¶ 332-34. Accord, Access Charge Reform, CC Docket No. 96-262, First Report and Order, FCC 97-158, ¶ 340 (released May 16, 1997) ("Access Reform Order").

contrast, are restricted by the nature of the ILEC's retail offerings and are not able to provide exchange access or exert any competitive pressure on access rates.

3. Competitors pay the full cost of the network components, and in turn recover those costs in their retail and exchange access offerings, just as the ILEC does. End user customers, in turn, will benefit from the price competition and service design competition made possible when the carrier is paying the actual cost of the underlying facilities. Resellers, in contrast, are limited to buying and reselling existing retail services, which are priced without any necessary relationship to the cost of the underlying network facilities.

4. Because purchasers of network elements are paying the actual cost of those facilities, they can create price pressure on services that today are often priced above cost, such as exchange access and vertical services. The Commission recognized that combinations of unbundled elements can create such market pressures on access rates in its recent decision in the Access Reform docket. 9/ Without such market pressures, prescriptive measures would be necessary to bring access rates to cost. By contrast, when resellers purchase local exchange service at a wholesale discount and resell it to their customers, the ILECs continue to provide the exchange access that enables interexchange carriers ("IXCs") to serve those customers.

5. Purchasers of network elements, including combinations of network elements, are considered to have their own facilities for purposes of eligibility for universal service support, unlike resellers of retail local exchange services. The Commission made this clear in its recent decision in the Universal Service docket. 10/

6. Pricing of network elements at cost is essential in order to send the correct investment signals to entrants. By denying entrants the ability to employ the existing ILEC interoffice network in an efficient manner, Ameritech would force entrants either to make inefficient and costly use of Ameritech's dedicated interoffice facilities, or to make uneconomic investments in competing facilities. As a practical matter, neither of these options, because of their high cost and inefficiency, is likely to make the platform configuration viable as a business matter.

9/ Access Reform Order, ¶¶ 337-340.

10/ Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Report and Order, FCC 97-157, ¶¶ 154-68 (released May 8, 1997).

7. The availability of network elements that can each gradually be aced by a competitor's own facilities actually encourages new construction. akes possible business plans that show breakeven sooner than any resale- -facilities-construction-only plans. Better business plans will attract more stment capital.

In contrast to network elements, resale provides a simpler entry n, and is useful for carriers that do not seek to design their own retail ce offerings, to function as access providers, or to undertake the other ations and risks associated with the purchase of unbundled network nts. For example, resellers do not have to create arrangements for billing xchange carriers for access, and do not have to ensure that the rates for rvices offered will cover the cost of the network elements ordered, as do sers of unbundled elements in combination. Resale therefore remains a option with distinct advantages and disadvantages compared with the of entry via a combination of network elements. Service provision over a ation of network elements, however, while more complex than resale, equesting carriers a more powerful platform that provides a more hensive basis for full-service competition with the ILECs.

In sum, combinations of network elements provide entrants an different competitive entry strategy than resale. Making common rt available as a network element in no way changes this fact.

III. The availability of a cost-based network element combination will not discourage investment in competitive local exchange networks.

Congress's decision to require ILECs to offer unbundled elements able, cost-based rates is not likely to inhibit facilities investment by ve local exchange carriers ("CLECs"). Rather, that requirement is to ensure that the correct economic signals are sent to carriers seeking n network facilities, and to make efficient use of the existing network. ecognized the importance of this requirement when it adopted ricing for unbundled elements. 11/ If the ILEC network elements are ve their true economic cost, investors will be unwilling to finance construction by competitors of facilities that are used to compete EC services that are provided over the ILEC network. Capital unlikely to be available for such above-cost investment, even if it able from an economic point of view.

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connection Order, 11 FCC Rcd at 15844, ¶ 672.

The fact remains that most CLECs would prefer to provide service over their own facilities rather than relying on their principal competitor, the ILEC. Reliance on a competitor for critical facilities creates significant business risks, including the risk of poor service quality and price increases. While the Act guards against these risks, it always is preferable where possible not to depend on the network of one's competitor and to have control over one's network. WorldCom's experience, and that of other CLECs, has been that operational and other issues make dependence on the ILEC network difficult and undesirable.

WorldCom's own experience provides vivid demonstration for this proposition. A few weeks after the FCC's August 8, 1996, interconnection decision, WorldCom announced the 12 billion dollar acquisition of MFS Communications, a leading facilities-based competitive local exchange carrier. WorldCom realized that, despite the important opportunity to purchase cost-based network elements from ILECs guaranteed by the Act and by the Commission's order, in the long term it would be better to own local network facilities to the maximum extent possible. During 1997 and the following years, moreover, WorldCom has definite plans to invest hundreds of millions of dollars to expand its existing local networks and to deploy network facilities in new markets. Twelve additional domestic cities are targeted for co-carrier facilties-based implementation by WorldCom between second quarter 1997 and second quarter 1998. WorldCom expects these plans to go forward regardless of the outcome of legal disputes regarding unbundled elements because of its interest in operating its own local network facilities as much as possible.

WorldCom thus intends to use the ILECs' unbundled network elements primarily as a transitional strategy, while it deploys its own local network facilities to the greatest extent possible. The availability of all network elements in combination is essential, however, to promotion of facilities construction, as discussed above at page 6. Unbundled network elements therefore will remain an important part of WorldCom's business strategy in the future -- particularly with respect to local telephone company facilities that are especially costly to duplicate. Yet the availability of those elements will not affect its overall plans for network investment.

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